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# HOUSE BILL No. 1544

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-7.5.

**Synopsis:** School corporation collective bargaining. Specifies additional subjects of collective bargaining between the exclusive representative for certificated educational employees and the school employer. Adds final offer mediation-arbitration as an alternative method of collective bargaining for education personnel.

**Effective:** July 1, 2003.

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### Fry, Liggett

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January 16, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1544

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 20-7.5-1-2, AS AMENDED BY P.L.100-2001,  
2       SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2003]: Sec. 2. As used in this ~~chapter~~ **article**:

4       (a) "School corporation" means ~~any~~ **the following**:

5       (1) A local public school corporation established under Indiana  
6       law. ~~and, in the case of~~

7       (2) A public vocational ~~schools~~ **school** or ~~schools~~ **school** for  
8       children with disabilities established or maintained by two (2) or  
9       more school corporations. ~~shall refer to such schools.~~

10      (b) "Governing body" means:

11      (1) the board or commission charged by law with the  
12      responsibility of administering the affairs of the school  
13      corporation; or

14      (2) the body that administers a charter school established under  
15      IC 20-5.5.

16      (c) "School employer" means:

17      (1) the governing body of each:



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- 1 (A) school corporation; or  
 2 (B) charter school established under IC 20-5.5; and  
 3 (2) any person or persons authorized to act for the governing body  
 4 of the school employer in dealing with its employees.  
 5 (d) "Superintendent" shall mean:  
 6 (1) the chief administrative officer of any:  
 7 (A) school corporation; or  
 8 (B) charter school established under IC 20-5.5; or  
 9 (2) any person or persons designated by the officer or by the  
 10 governing body to act in the officer's behalf in dealing with school  
 11 employees.  
 12 (e) "School employee" means any full-time certificated person in the  
 13 employment of the school employer. A school employee shall be  
 14 considered full time even though the employee does not work during  
 15 school vacation periods, and accordingly works less than a full year.  
 16 There shall be excluded from the meaning of school employee  
 17 supervisors, confidential employees, employees performing security  
 18 work and noncertificated employees.  
 19 (f) "Certificated employee" means a person:  
 20 (1) whose contract with the school corporation requires that the  
 21 person hold a license or permit from the **Indiana** state board of  
 22 education or a commission thereof as provided in IC 20-6.1; or  
 23 (2) who is employed as a teacher by a charter school established  
 24 under IC 20-5.5.  
 25 (g) "Noncertificated employee" means any school employee whose  
 26 employment is not dependent upon the holding of a license or permit  
 27 as provided in IC 20-6.1.  
 28 (h) "Supervisor" means any individual who has:  
 29 (1) authority, acting for the school corporation, to hire, transfer,  
 30 suspend, lay off, recall, promote, discharge, assign, reward, or  
 31 discipline school employees;  
 32 (2) responsibility to direct school employees and adjust their  
 33 grievances; or  
 34 (3) responsibility to effectively recommend the action described  
 35 in subdivisions (1) through (2);  
 36 that is not of a merely routine or clerical nature but requires the use of  
 37 independent judgment. The term includes superintendents, assistant  
 38 superintendents, business managers and supervisors, directors with  
 39 school corporation-wide responsibilities, principals and vice principals,  
 40 and department heads who have responsibility for evaluating teachers.  
 41 (i) "Confidential employee" means a school employee whose  
 42 unrestricted access to confidential personnel files or whose functional

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responsibilities or knowledge in connection with the issues involved in dealings between the school corporation and its employees would make the confidential employee's membership in a school employee organization incompatible with the employee's official duties.

(j) "Employees performing security work" means any school employee whose primary responsibility is the protection of personal and real property owned or leased by the school corporation or who performs police or quasi-police powers.

(k) "School employee organization" means any organization which has school employees as members and one (1) of whose primary purposes is representing school employees in dealing with their school employer, and includes any person or persons authorized to act on behalf of such organizations.

(l) "Exclusive representative" means the school employee organization which has been certified for the purposes of this chapter by the board or recognized by a school employer as the exclusive representative of the employees in an appropriate unit as provided in section 10 of this chapter, or the person or persons duly authorized to act on behalf of such representative.

(m) "Board" means the Indiana education employment relations board provided by this chapter.

(n) "Bargain collectively" means the performance of the mutual obligation of the school employer and the exclusive representative to meet at reasonable times to negotiate in good faith with respect to items enumerated in section 4 of this chapter and to execute a written contract incorporating any agreement relating to such matters. Such obligation shall not include the final approval of any contract concerning these or any other items. Agreements reached through collective bargaining are binding as a contract only if ratified by the governing body of the school corporation and the exclusive representative. The obligation to bargain collectively does not require the school employer or the exclusive representative to agree to a proposal of the other or to make a concession to the other, **except that this obligation is subject to the final offer process if mediation-arbitration under IC 20-7.5-2 is elected under section 11.5 of this chapter.**

(o) "Discuss" means the performance of the mutual obligation of the school corporation through its superintendent and the exclusive representative to meet at reasonable times to discuss; to provide meaningful input; to exchange points of view; with respect to items enumerated in section 5 of this chapter. This obligation shall not, however, require either party to enter into a contract; to agree to a

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proposal, or to require the making of a concession. A failure to reach an agreement on any matter of discussion shall not require the use of any part of the impasse procedure, as provided in section 13 of this chapter. Neither the obligation to bargain collectively nor to discuss any matter shall prevent any school employee from petitioning the school employer, the governing body, or the superintendent for a redress of the employee's grievances either individually or through the exclusive representative, nor shall either such obligation prevent the school employer or the superintendent from conferring with any citizen, taxpayer, student, school employee, or other person considering the operation of the schools and the school corporation.

(p) (o) "Strike" means concerted ~~failure~~ **refusal** to report for ~~duty~~, willful absence from one's position, stoppage of work, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, without the lawful approval of the school employer, or in any concerted manner interfering with the operation of the school employer for any purpose.

(q) (p) "Deficit financing" with respect to any budget year shall mean expenditures in excess of money legally available to the employer.

(q) "Submission date" means the first date for the legal notice of a budget fixed by the school employer under IC 6-1.1-17-5.

SECTION 2. IC 20-7.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Duty to Bargain Collectively and Discuss~~. On and after January 1, 1974, school employers and school employees shall have the obligation and the right to bargain collectively the items set forth in section 4 ~~the right and obligation to discuss any item set forth in Section 5 of this chapter~~ and shall enter into a contract embodying any of the matters on which they have bargained collectively. No contract may include provisions in conflict with (a) any right or benefit established by federal or state law, (b) school employee rights as defined in section 6(a) of this chapter, or (c) school employer rights as defined in section 6(b) of this chapter. It shall be unlawful for a school employer to enter into any agreement that would place such employer in a position of deficit financing as defined in this chapter, and any contract which provides for deficit financing shall be void to that extent and any individual teacher's contract executed in accordance with such contract shall be void to such extent.

SECTION 3. IC 20-7.5-1-4, AS AMENDED BY P.L.286-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Subjects of Bargaining~~. A school employer

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shall bargain collectively with the exclusive representative on the following:

- (1) Salary.
- (2) Wages.
- (3) Hours. ~~and~~
- (4) Salary and wage related fringe benefits, including accident, sickness, health, dental, or other benefits under IC 20-5-2-2 that are subjects of bargaining on July 1, 2001.
- (5) **Working conditions.**
- (6) **Curriculum development and revision.**
- (7) **Textbook selection.**
- (8) **Teaching methods.**
- (9) **Hiring, promotion, demotion, transfer, assignment, and retention of certificated employees and changes to any of the requirements set forth in IC 20-6.1-4.**
- (10) **Student discipline.**
- (11) **Expulsion or supervision of students.**
- (12) **Pupil-teacher ratio.**
- (13) **Class size or budget appropriations.**

**Items included in the 1972-1973 agreements between any employer school corporation and the employee organization shall continue to be bargainable.** A contract may also contain a grievance procedure culminating in final and binding arbitration of unresolved grievances, but such binding arbitration shall have no power to amend, add to, subtract from or supplement provisions of the contract.

SECTION 4. IC 20-7.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. ~~(a) A school employer shall discuss with the exclusive representative of certificated employees, and may but shall not be required to bargain collectively, negotiate, or enter into a written contract concerning or be subject to or enter into impasse procedures on the following matters:~~

- ~~(1) Working conditions, other than those provided in section 4 of this chapter.~~
- ~~(2) Curriculum development and revision.~~
- ~~(3) Textbook selection.~~
- ~~(4) Teaching methods.~~
- ~~(5) Hiring, promotion, demotion, transfer, assignment, and retention of certificated employees, and changes to any of the requirements set forth in IC 20-6.1-4.~~
- ~~(6) Student discipline.~~
- ~~(7) Expulsion or supervision of students.~~
- ~~(8) Pupil-teacher ratio.~~



~~(9) Class size or budget appropriations.~~  
 However, any items included in the 1972-1973 agreements between any employer school corporation and the employee organization shall continue to be bargainable.

~~(b)~~ (a) Nothing shall prevent a superintendent or his the superintendent's designee from making recommendations to the school employer.

~~(c)~~ (b) This chapter may not be construed to limit the rights of the school employer and the exclusive representative to mutually agree to the matters authorized under IC 20-6.1-4-14.5.

SECTION 5. IC 20-7.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) School employees shall have the right to form, join, or assist employee organizations, to participate in collective bargaining with school employers through representatives of their own choosing, and to engage in other activities, individually or in concert for the purpose of establishing, maintaining, or improving salaries, wages, hours, salary and wage related fringe benefits, and other matters as defined in ~~sections~~ **section 4 and 5** of this chapter. A school employee may not be required to join or financially support through the payment of fair share fees, representation fees, professional fees, or other fees, a school employee organization. A rule, regulation, or contract provision requiring financial support from a school employee to a school employee organization is void.

(b) School employers shall have the responsibility and authority to manage and direct in behalf of the public the operations and activities of the school corporation to the full extent authorized by law. Such responsibility and activity shall include but not be limited to the right of the school employer to:

- (1) direct the work of its employees;
- (2) establish policy through procedures established in ~~sections~~ **section 4 and 5** of this chapter;
- (3) hire, promote, demote, transfer, assign, and retain employees through procedures established in ~~sections~~ **section 4 and 5** of this chapter;
- (4) suspend or discharge its employees in accordance with applicable law through procedures established in ~~sections~~ **section 4 and 5** of this chapter;
- (5) maintain the efficiency of school operations;
- (6) relieve its employees from duties because of lack of work or other legitimate reason through procedures established in ~~sections~~ **section 4 and 5** of this chapter; and



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(7) take actions necessary to carry out the mission of the public schools as provided by law.

SECTION 6. IC 20-7.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. ~~Unfair Practices:~~ (a) It shall be an unfair practice for a school employer to:

(1) interfere with, restrain or coerce school employees in the exercise of the rights guaranteed in Section 6 of this chapter.

(2) dominate, interfere or assist in the formation or administration of any school employee organization or contribute financial or other support to it; provided, that subject to rules and regulations made by the governing body, a school employer may permit school employees to confer with the school employer or with any school employee organization during working hours without loss of time or pay;

(3) encourage or discourage membership in any school employee organization through discrimination in regard to hiring or tenure of employment or any term or condition of employment;

(4) discharge or otherwise discriminate against a school employee because he has filed a complaint, affidavit, petition, or given any information or testimony under this chapter;

(5) refuse to bargain collectively ~~or discuss~~ with an exclusive representative as required by any provisions of this chapter;

(6) fail or refuse to comply with any provision of this chapter.

(b) It shall be an unfair practice for a school employee organization or its agents to:

(1) interfere with, restrain or coerce (a) school employees in the exercise of the rights guaranteed by this chapter, or (b) a school employer in the selection of its representatives for the purpose of bargaining collectively, discussing or adjusting grievances. This paragraph shall not impair the right of a school employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein.

(2) cause or attempt to cause a school employer to discriminate against an employee in violation of subsection (a);

(3) refuse to bargain collectively with a school employer, if the school employee organization is the exclusive representative;

(4) fail or refuse to comply with any provision of this chapter.

(c) Nothing herein shall in any way restrict the right of either the school employer or the school employee organization to bring suit for specific performance and/or breach of performance of a collective bargaining contract in any court having jurisdiction thereof.

SECTION 7. IC 20-7.5-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) There is created

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an Indiana education employment relations board which shall consist of three (3) members appointed by the governor to serve at the governor's pleasure. One (1) member shall be designated by the governor as chairman. Not more than two (2) members of the board shall be members of the same political party. Each member shall be appointed for a term of four (4) years. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member whom the appointed member is to succeed.

(b) Members shall hold no other public office or employment by the state or other public agency or public employer, or be an officer or employee of any school employee organization or any of its affiliates, or represent any school employer or school employee organization, or its affiliates.

(c) Subsection (b) does not apply to persons on the teaching staff of a university who are knowledgeable in public administration or labor law so long as they are not actively engaged, other than as a member, with any labor or employee organization. This subsection shall be construed liberally to effectuate the intent of the general assembly.

(d) The chairman shall give full time to the chairman's duties. The chairman of the board shall not engage in any other business, vocation, or employment. The members of the board other than the chairman receive as compensation payment equal to that of the chairman, computed on a daily rate and paid for every day actually spent serving on the board.

(e) A majority of the members of the board constitutes a quorum.

(f) To accomplish the objectives and to carry out the duties prescribed in this chapter the board shall have the following powers:

(1) To adopt an official seal and prescribe the purposes for which it shall be used.

(2) To hold hearings and make inquiries as it deems necessary to carry out properly its functions and powers.

(3) To establish a principal office in the city of Indianapolis.

(4) To meet and exercise its powers at any other place in Indiana.

(5) To conduct in any part of Indiana a proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions. For any such purpose, the board may designate one

(1) of its members, or an agent or agents, as hearing examiners.

The board may utilize voluntary and uncompensated services as may be needed.

(6) To appoint staff and attorneys as it may find necessary for the proper performance of its duties. The attorneys appointed under this section may, at the direction of the board, appear for and

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represent the board in court.

(7) To pay the reasonable and necessary traveling and other expenses of any employee, member, or agent of the board.

(8) To subpoena witnesses and issue subpoenas requiring the production of books, papers, records, and documents which may be needed as evidence in any matter under inquiry, and to administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to any person, the circuit or superior court of the county in which the investigations or the public hearings are taking place, upon application by the board, shall issue an order requiring the person to appear before the board and produce evidence about the matter under investigation. A failure to obey the order may be punished by the court as a contempt. Any subpoena, notice of hearing, or other process of the board issued under this chapter shall be served in the manner prescribed by the Indiana Rules of Trial Procedure.

(9) To adopt, promulgate, amend, or rescind rules it deems necessary and administratively feasible to carry out this chapter in accordance with IC 4-22-2.

(10) To request from any public agency the assistance, services, and data as will enable the board properly to carry out its functions and powers.

(11) To publish and report in full an opinion in every case decided by it.

(g) The board shall organize its staff to provide for the functions of unit determination, unfair labor practice processing, conciliation and mediation, factfinding, **mediation-arbitration under IC 20-7.5-2**, and research. In connection with any conciliation and mediation, ~~or factfinding, it or mediation-arbitration under IC 20-7.5-2~~, the board may use either full-time employees or appoint employees for specific cases from a panel which it establishes. Its research division shall be organized to provide statistical data on the resources of each school corporation, the substance of any agreements reached by each school corporation, and other relevant data.

SECTION 8. IC 20-7.5-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11.5. An exclusive representative may begin collective bargaining by notifying the board and the employer on or before one hundred eighty (180) days before the submission date that the exclusive representative intends to use either of the following procedures:**

**(1) The collective bargaining procedure set forth in section 12**



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of this chapter.

(2) The mediation and final offer selection procedure set forth in IC 20-7.5-2.

SECTION 9. IC 20-7.5-2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 2. Mediation; Final Offer Selection**

**Sec. 1.** An alternative method of collective bargaining is provided by this chapter because experience has demonstrated that harmonious and cooperative relationships between school employers and their employees can best be accomplished by a collective bargaining and discussion impasse procedure that ends in binding resolution of disputes. The public interest will be served by an effective, efficient resolution of disputes within the public schools of Indiana.

**Sec. 2.** This chapter applies to collective bargaining in which the exclusive representative has elected to proceed under this chapter and has notified the employer and the board as provided in IC 20-7.5-1-11.5.

**Sec. 3.** A school corporation and the exclusive representative shall begin to bargain collectively at least ninety (90) days before the submission date, unless the exclusive representative has elected to proceed under IC 20-7.5-1-12.

**Sec. 4.** In addition to the impasse procedures specified in this chapter, a school employer and an exclusive representative may agree in writing to a dispute settlement procedure. A copy of the agreement shall be filed by the parties with the board. If the parties agree to a form of binding arbitration, the arbitrator shall give weight to the factors listed in section 12 of this chapter. The arbitration award is subject to appeal under sections 16 through 19 of this chapter.

**Sec. 5.** If the parties have not reached an agreement at least sixty (60) days before the submission date, the parties shall notify the board that an impasse exists, and the board shall initiate mediation-arbitration.

**Sec. 6.** Not later than fifteen (15) days after the receipt of a notice of an impasse, each party shall submit to the board and exchange with the other party its final offer on each item remaining at impasse that is also an item listed in IC 20-7.5-1-4 and IC 20-7.5-1-5. The parties also shall file with the board a joint stipulation with respect to all matters that have been previously agreed on for inclusion in the new or amended collective

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1 bargaining agreement. All final offers and joint stipulations filed  
2 with the board are open to public inspection.

3 Sec. 7. (a) Not later than three (3) days after the receipt of a  
4 notice of an impasse from the parties, the board shall submit to the  
5 parties a list of five (5) competent and experienced  
6 mediator-arbitrators, who must be representatives of the interests  
7 of the public, but who may not be employees of the board.

8 (b) Not later than five (5) days after the receipt of the list of  
9 names, the parties shall agree on a name or alternately strike a  
10 name from the list until one (1) name remains. The parties shall  
11 determine by lot who strikes the first name. The parties shall notify  
12 the board of the mediator-arbitrator chosen.

13 (c) If a mediator-arbitrator has not been chosen through  
14 agreement or striking names within the five (5) day limit, the board  
15 shall select a mediator-arbitrator from the list.

16 (d) Upon receipt of notice from the parties or after the board  
17 makes a selection, the board shall formally appoint the  
18 mediator-arbitrator and submit to the mediator-arbitrator the  
19 final offers and joint stipulation of the parties.

20 Sec. 8. A mediator-arbitrator shall begin mediation not later  
21 than ten (10) days after appointment. The final offers of the  
22 parties, as transmitted by the board to the mediator-arbitrator,  
23 must serve as the mutual basis for mediation and continued  
24 negotiations between the parties with regard to issues in dispute  
25 that have not been agreed upon by the parties. All mediation  
26 sessions must be private.

27 Sec. 9. (a) For seven (7) successive days after the first mediation  
28 session, the mediator-arbitrator shall mediate the dispute and  
29 encourage a voluntary and mutual settlement by the parties.  
30 During the first five (5) days of the seven (7) successive day period,  
31 either party may unilaterally modify in writing any item in its final  
32 offer. At the end of the five (5) day period, each party shall certify  
33 in writing to the board the changes that have been made in its final  
34 offer during mediation, with a copy sent to the mediator-arbitrator  
35 and to the other party. During the last two (2) days of the seven (7)  
36 successive day period, a modification of either party's final offer  
37 may be made only with the consent of the other party.

38 (b) Any modifications made shall be certified by the parties to  
39 the board, with a copy sent to the mediator-arbitrator.

40 Sec. 10. (a) If the parties have failed to reach a voluntary and  
41 mutual settlement during the seven (7) successive day mediation  
42 period, the dispute shall be resolved by final offer item by item

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1 selections.

2 (b) Not later than five (5) days after the end of the mediation  
3 period and before selecting the final offers, the mediator-arbitrator  
4 shall conduct a public hearing for the purpose of providing an  
5 opportunity to both parties to present evidence and argument in  
6 support of their final offers.

7 (c) Not later than ten (10) days after the completion of the  
8 hearing, the mediator-arbitrator shall in writing select the final  
9 offer that, in the mediator-arbitrator's judgment, is the more  
10 reasonable and shall in writing state reasons for the selection. The  
11 mediator-arbitrator's selection and the reasons shall be delivered  
12 to the board and to each party. The final offers selected, along with  
13 the stipulation of items already agreed to, become the agreement  
14 between the parties and are final and binding upon the parties,  
15 subject to section 11 and sections 16 through 19 of this chapter.

16 Sec. 11. The parties may voluntarily and mutually agree upon  
17 the terms and conditions of a contract at any time.

18 Sec. 12. In making a decision under the final offer selection  
19 procedures authorized by section 10 of this chapter, a  
20 mediator-arbitrator shall give weight to the following factors:

21 (1) Past memoranda of agreement and contracts between the  
22 parties.

23 (2) Comparison of wages, hours, terms of employment, and  
24 conditions of employment of the school employees involved  
25 with those of other employees doing comparable work, giving  
26 consideration to factors peculiar to the work involved.

27 (3) Comparison of wages, hours, terms of employment, and  
28 conditions of employment with similar employment in private  
29 business and industry.

30 (4) The average consumer prices for goods and services,  
31 commonly known as the cost of living.

32 (5) The effect on the educational atmosphere or environment.

33 Sec. 13. (a) A mediator-arbitrator may not be employed on a  
34 full-time or part-time basis by:

35 (1) a public school employer that is a school corporation;

36 (2) an organization of public employees, public employers, or  
37 their affiliates; or

38 (3) a firm that represents employers or employees in the  
39 implementation of this article.

40 (b) The board shall pay the compensation and expenses of a  
41 mediator-arbitrator.

42 Sec. 14. (a) If an agreement has not been reached on the items

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1 to be bargained collectively fourteen (14) days before the  
 2 submission date, the parties shall continue the status quo, and the  
 3 employer may issue tentative individual contracts and prepare a  
 4 budget based on the individual contracts.

5 (b) During the status quo period, in order to permit the  
 6 successful resolution of the dispute, the employer may not  
 7 unilaterally change the terms or conditions of employment that are  
 8 issues in dispute.

9 (c) This section does not relieve the school employer or the  
 10 school employee organization from the duty to follow the  
 11 procedures set forth in this chapter.

12 Sec. 15. The board shall adopt rules under IC 4-22-2 to  
 13 implement this chapter.

14 Sec. 16. Not later than fifteen (15) days after the  
 15 mediator-arbitrator's final offer selection, either party may  
 16 petition the circuit or superior court of Marion County to set the  
 17 final offer selection aside. Any time after the fifteen (15) day  
 18 period, either party may petition the circuit or superior court of  
 19 Marion County to enforce a final offer selection. The court shall  
 20 hear these matters on an expedited basis and not later than thirty  
 21 (30) days after the filing of a petition. The court must enforce the  
 22 final offer selection unless the court finds by a preponderance of  
 23 the evidence that the decision is:

- 24 (1) illegal;
- 25 (2) in excess of the mediator-arbitrator's power; or
- 26 (3) procured by fraud, bribery, or corruption.

27 Sec. 17. If a court sets aside a final offer selection because of  
 28 illegality or excess of power, the selection shall be remanded to the  
 29 same mediator-arbitrator who heard the selection the first time,  
 30 subject to the right of a party to appeal an adverse ruling of the  
 31 court. The mediator-arbitrator has the following choices on  
 32 remand:

- 33 (1) Affirm the earlier final offer selection minus any items set  
 34 aside by the court.
- 35 (2) Make a new determination on the original final offers  
 36 proposed by the parties after a new hearing or argument, at  
 37 the discretion of the mediator-arbitrator.

38 Sec. 18. If a court sets aside a final offer selection because of  
 39 fraud, bribery, or corruption, the selection shall be remanded to  
 40 the board for an expedited hearing before a new  
 41 mediator-arbitrator, selected in the same manner as the original  
 42 mediator-arbitrator, subject to the right of a party to appeal an

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1 adverse ruling of the court.

2       **Sec. 19.** An appeal under section 17 or 18 of this chapter shall be  
3 taken in the manner and to the same extent as orders or judgments  
4 are taken in a civil action. Because of the appeal's public  
5 importance, the appeal shall be advanced on the docket for the  
6 consideration of the court.

7       **Sec. 20.** A party who:

8           (1) fails to implement a final offer selection; or

9           (2) appeals a final offer selection and does not ultimately  
10 prevail in court;

11 is liable for reasonable attorney's fees, interest on delayed  
12 monetary benefits, and other costs incurred in the action.

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